

EXHIBIT D

1
2 IN THE UNITED STATES DISTRICT COURT
3 FOR THE SOUTHERN DISTRICT OF NEW YORK

4 -----X

5 PAVLE ZIVKOVIC,

6 Plaintiff,

7 v.

8 VALBELLA AT THE PARK, LLC

9 -----X

10 Zoom Video Conference

11 May 4, 2023

12 10:06 a.m.

13 EXAMINATION BEFORE TRIAL of DAVID GHATANFARD, the
14 Defendant in the above-entitled action, held via Zoom Video
15 Conference taken before ELIZABETH SANTOS, a Notary Public of
16 the State of New York, pursuant to order and stipulations
17 between Counsel.
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A P P E A R A N C E S:
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BY: JOSEF NUSSBAUM, ESQ.

Also present:
Lucas Buzzard (Sitting in with Mr. Nussbaum)
Leonard Spielberg (Sitting in with Mr. Comer)

S T I P U L A T I O N S

IT IS HEREBY STIPULATED AND AGREED BY AND BETWEEN the parties hereto through their respective counsel that all objections as to the form of the question shall be reserved to the time of trial;

IT IS FURTHER STIPULATED BY AND BETWEEN the parties hereto through their respective counsel that sealing, certification and filing shall be and the same are hereby waived;

IT IS FURTHER STIPULATED AND AGREED that the within examination may be signed and sworn to before any Notary Public with the same force and effect as if signed and sworn to before this Court.

1 DAVID GHATANFARD

2 D A V I D G H A T A N F A R D ,

3 having first been duly sworn by Elizabeth Santos, a Notary
4 Public of the State of New York, was examined and testified
5 as follows:

6 EXAMINATION BY

7 MR. NUSSBAUM:

8 COURT REPORTER: Please state your name
9 for the record.

10 THE WITNESS: David Ghatanfard.

11 COURT REPORTER: What is your present
12 address?

13 THE WITNESS: 56 Oak Grove Road, private
14 house, South Hampton, New York.

15 Q. Good morning, Ghatanfard.

16 A. Good morning.

17 Q. I've taken your deposition before, so I
18 know you have some experience with this. I'm not
19 going to go over the details of all the rules since
20 I know you're familiar with them. We're taking your
21 deposition today as part of a lawsuit that was
22 brought by Pavle Zivkovic against Valbella at the
23 Park, LLC.

24 Do you understand that?

25 A. Yes, I do.

1 DAVID GHATANFARD

2 Q. Did you ever meet with any attorneys to
3 sign an agreement or to organize an agreement for
4 Oak Grove Road, LLC?

5 A. No.

6 Q. Isn't it true that Oak Grove Road, LLC is
7 the company that you used to invest in Valbella at
8 the Park?

9 A. I don't know.

10 Q. How did you become a partner at Valbella
11 at the Park?

12 A. I didn't handle that part.

13 Q. So you don't know how you became a partner
14 at Valbella at the Park?

15 A. I just know that I'm 10 percent partner in
16 Valbella at the Park.

17 Q. But you don't know how that came to be?

18 A. No.

19 Q. I'd like to direct your attention to an
20 earlier part of this exhibit -- withdrawn.

21 How much did you invest in Valbella
22 at the Park?

23 A. I don't recall.

24 Q. Was it more or less than a million
25 dollars?

1 DAVID GHATANFARD

2 A. I'm sorry.

3 Q. Was it more or less than a million
4 dollars?

5 A. I didn't invest any money.

6 Q. So how did you become a partner?

7 A. I believe the reason of, you know, being,
8 you know, management a part of -- what you call it,
9 deeds, I have ten percent. Five or 10 percent of
10 the deed.

11 Q. I'd like to direct your attention to page
12 310 of this exhibit, which is marked as DEF304.

13 On the top it says, First Amendment
14 to the Operating Agreement of Oak Grove Road, LLC.

15 Do you see that?

16 A. I do.

17 Q. And then on the next page at the bottom or
18 two pages later, I'm sorry, at the bottom it says,
19 Acknowledged and Agreed, David Ghatanfard and
20 there's a signature.

21 Is that your signature?

22 A. No.

23 Q. That's not your signature?

24 A. No.

25 Q. Who signed the checks at Valbella Midtown,

1 DAVID GHATANFARD

2 A. Can I see the signature again?

3 Q. Sure. You should have it on your screen.

4 A. I think so.

5 Q. But you're not sure about this one either?

6 A. I think so.

7 Q. I don't know what that means.

8 Are you sure this isn't your
9 signature or not?

10 MR. SEEMAN: Objection.

11 A. I think so, that's my signature.

12 Q. Are you sure that it is?

13 MR. SEEMAN: Objection.

14 A. I think that's my signature.

15 Q. I'd like to show you a document that I'm
16 going to mark as Exhibit 8.

17 (The document was hereby deemed marked as
18 Plaintiff's Exhibit 8 for identification, as of
19 this date.)

20 On your screen you should have a six-page
21 document that we're marking as Plaintiff's
22 Exhibit 8.

23 I'll represent to you that these are
24 documents that were produced to my office by
25 PNC Bank in response to a subpoena we served in

1 DAVID GHATANFARD

2 the class action. On the top of the first page
3 it says, PNC Bank on a check

4 Do you see that?

5 A. Yes, I do.

6 Q. And the check is paid to the order of
7 David Ghatanfard.

8 Do you see that?

9 A. Yes, I do.

10 Q. And is that your signature?

11 A. Probably.

12 Q. Why are you saying probably?

13 MR. SEEMAN: Objection?

14 A. I don't remember sign it, but probably
15 that's my signature.

16 Q. Do you remember depositing this check for
17 \$100,000?

18 A. I don't recall.

19 Q. Do you see on the endorsement there's
20 another signature; is that your signature?

21 A. I don't know if it is or not.

22 Q. Did you take a draw of \$100,000 from
23 Valbella Midtown --

24 MR. SEEMAN: Objection.

25 Q. -- in February 2021?

1 DAVID GHATANFARD

2 MR. SEEMAN: Objection.

3 MR. NUSSBAUM: I was in the middle of my
4 question, Mr. Seeman. I'm going to ask it
5 again.

6 Q. Mr. Ghatanfard, did you take a draw out
7 from Valbella Midtown for \$100,000, in February
8 2021?

9 MR. SEEMAN: Objection.

10 A. Ask the question again.

11 Q. Did you take \$100,000 from Valbella
12 Midtown and pay it to yourself in February 2021?

13 A. Looks like I did.

14 Q. Do you remember doing it?

15 A. I don't remember.

16 Q. Turning to the next page on this document,
17 is another check from PNC Bank, dated April 19,
18 2021. And there's a pay to order to David
19 Ghatanfard for \$200,000 and the signature.

20 Is this your signature on the check?

21 A. Probably.

22 Q. What would make you sure that it is or is
23 not your signature?

24 A. I don't know.

25 Q. Do you not remember what your signature

1 DAVID GHATANFARD

2 looks like?

3 A. I don't know.

4 Q. Do you drive everyday?

5 A. Do I drive everyday?

6 Q. Yeah, do you drive a car?

7 A. Sometimes.

8 Q. Are you wearing glasses right now?

9 A. No.

10 Q. Do you have any problems with your vision?

11 A. I'm sorry.

12 Q. Do you have any problems with your vision?

13 A. I didn't check my eyes yet lately.

14 Q. But as far as you know, you don't have any
15 problems with your vision; right?

16 A. I don't know.

17 Q. You don't know if you have any problems
18 with your vision?

19 A. I didn't checkup on my eyes for the past
20 seven years.

21 Q. I'm not saying a checkup. As you're
22 sitting here right now, do you feel like you have a
23 problem with your vision?

24 A. I don't know.

25 Q. You don't know.

1 DAVID GHATANFARD

2 On the back of the check for the
3 endorsement there's another signature.

4 Is that your signature on the right
5 side of the page?

6 A. I don't know.

7 Q. Why is it that you don't know?

8 MR. SEEMAN: Objection.

9 A. I don't know.

10 Q. What was the answer?

11 A. It looks like it.

12 Q. I'm going to show you Exhibit 7 again. On
13 the last page of Exhibit 7, you said this was your
14 signature; right?

15 A. Probably.

16 Q. Now you're saying probably. Before you
17 said you thought so.

18 A. Yes, that's the same thing.

19 Q. I'm sorry I cut out, what was your answer?

20 A. English is not my first language.

21 Q. I'm talking to you about a signature. I'm
22 not talking about English, Mr. Ghatanfard.

23 Is this your signature or not.

24 MR. SEEMAN: Objection.

25 A. Probably yes.

1 DAVID GHATANFARD

2 Q. On Exhibit 8, is this your signature or
3 not? Are these two signatures your signatures or
4 not?

5 A. Probably.

6 Q. So you can't say definitely either way if
7 any of the signatures that I showed you, are your
8 signature; is that right?

9 A. I wish I had a better answer for you.

10 Q. Please answer my question.

11 You cannot say definitely either way,
12 if any of the signatures that I showed you, are in
13 fact your signature; right.

14 MR. SEEMAN: Objection.

15 A. I don't remember signing any of those. I
16 really don't remember.

17 Q. That's not my question. I didn't ask you
18 if you remember signing it. I'm asking if the
19 signature on the page is your signature. And I'm
20 asking you now, you're telling me that out of all
21 the signatures I've showed you so far today, you are
22 not able to tell me definitely one way or another if
23 they are or not your signature; correct?

24 A. Yes.

25 Q. Is there anything that I could show you

1 DAVID GHATANFARD

2 that would help you to be able to recognize what is
3 your signature?

4 A. Probably not.

5 Q. Continuing on Plaintiff's Exhibit 8, page
6 three of this exhibit is another check in 2021 pay
7 to the order of David Ghatanfard from Laura Christy
8 Midtown, LLC for \$200,000.

9 Do you see that?

10 A. Yes, I do.

11 Q. And you're paying yourself \$200,000 in May
12 2021?

13 A. Probably.

14 Q. Turning to the next page, June 30, 2021,
15 there's a check again from Laura Christy Midtown,
16 LLC, pay to the order of David Ghatanfard for
17 another \$200,000.

18 Do you see that?

19 A. Yes.

20 Q. Do you remember paying yourself for the
21 end of June 2021 for \$200,000?

22 A. Probably.

23 Q. What would help you remember for sure that
24 you did or did not?

25 A. I don't know.

1 DAVID GHATANFARD

2 Q. But you remember taking large draws from
3 Valbella Midtown in 2021; correct?

4 MR. SEEMAN: Objection.

5 A. If the check said it.

6 Q. But you remember taking draws of \$100,000
7 or \$200,000 --

8 A. I don't remember.

9 MR. SEEMAN: Objection.

10 MR. NUSSBAUM: Everyone is talking at
11 once. I'm going to ask it again.

12 Q. You remember taking draws of \$100,000 or
13 \$200,000 from Valbella Midtown in 2021; correct?

14 MR. SEEMAN: Objection.

15 A. Probably.

16 Q. What would make you know for sure?

17 MR. SEEMAN: Objection.

18 A. I don't know.

19 Q. Is there anything at all that would help
20 refresh your recollection other than looking at the
21 checks?

22 A. I don't know.

23 MR. SEEMAN: Objection.

24 Q. The next one, another check, July of 2021
25 for \$200,000 to David Ghatanfard.

1 DAVID GHATANFARD

2 Do you see that?

3 A. Repeat that question.

4 Q. Do you see this check for \$200,000 that's
5 paid to you?

6 A. Yes.

7 Q. Is that your signature on that?

8 A. Probably.

9 Q. Do you recall paying yourself a check for
10 \$200,000 in July of 2021?

11 A. I don't recall.

12 Q. And the last page in this document,
13 another check for \$200,000 paid to David Ghatanfard
14 in September of 2021.

15 Do you see that?

16 A. Yes, I do.

17 Q. Isn't it true that you withdrew \$1.1
18 million in these checks from Valbella Midtown?

19 A. If the check amount to the much, it's
20 true.

21 Q. But do you recall in 2021 that you took
22 out more than a million dollars out of Valbella
23 Midtown?

24 A. I don't recall.

25 Q. Do you recall taking any money out of

1 DAVID GHATANFARD

2 Valbella Midtown?

3 A. Yes, I took some money. I don't remember
4 how much.

5 Q. Where is that money now?

6 A. I'm sorry.

7 Q. Where is that money now?

8 A. The money was invested. The money was
9 given to my family in Iran because they needed help.
10 My brother back in New York when he needed help?

11 Q. Do you have records of that?

12 A. I pay my taxes.

13 Q. Do you have records of transferring money
14 to the family?

15 A. I'm sorry.

16 Q. Do you have any records of transferring
17 money to family?

18 A. You can't send money to Iran and have
19 document on it. You know better than that.

20 Q. So you sent it to them in cash?

21 MR. SEEMAN: Objection.

22 A. I'm sorry.

23 Q. You sent it to them in cash?

24 A. I don't remember.

25 Q. You don't remember how you sent the money?

1 DAVID GHATANFARD

2 A. My brother handled it. I don't remember.

3 Q. How did you get your brother the money?

4 A. I'm sorry.

5 Q. How did you get your brother the money?

6 A. I don't remember.

7 Q. So you don't remember if it was in cash,
8 or if it was sent through another method?

9 A. I really don't remember.

10 Q. When did you make these transfers to your
11 brother?

12 A. I don't remember.

13 Q. What city is your brother at?

14 A. I'm sorry.

15 Q. What City does your brother live in?

16 A. (Inaudible.)

17 Q. How old is he?

18 A. My brother?

19 Q. Yes.

20 A. I don't know.

21 Q. Is he older than you or younger than you?

22 A. Younger.

23 Q. So you sent money to your brother whose
24 age you don't know and you don't remember how you
25 sent it.

1 DAVID GHATANFARD

2 Is that what your testimony is?

3 A. I left the country in 1950. I don't
4 remember.

5 Q. How often would you send money to your
6 brother?

7 A. I'm sorry.

8 Q. How often do you send money to your
9 brother?

10 A. I don't remember.

11 Q. When was the last time that you sent him
12 money?

13 A. I don't recall.

14 Q. Did you send him money in the last six
15 months?

16 A. I don't recall.

17 Q. So you took out a million dollars from
18 Valbella Midtown, but after that you don't recall
19 anything that happened.

20 Is that what your testimony is?

21 A. I paid cash for it, and I had to live and
22 I sent money to my family. I had to pay taxes, pay
23 the government.

24 Q. I'm going to mark this document as
25 Plaintiff's Exhibit 9.

1 DAVID GHATANFARD

2 right?

3 A. That's the only check I paid him.

4 Q. That's the only check you paid him?

5 A. I'm sorry.

6 Q. The checks that's on your screen, that's
7 the only check you paid him?

8 A. How much is it, just make it big?

9 Q. \$95,000.

10 A. No, that's not the only one I give him.

11 Q. You gave him another check for \$85,000;
12 right?

13 A. Whatever it is. Where is the other check,
14 and I can see it, I can tell you.

15 Q. And you also paid Mr. Spielberg about
16 \$180,000 to represent you at the trial; right?

17 A. Before the trial.

18 Q. Yeah, for the representation; right?

19 A. That's right.

20 Q. Do you know an attorney named Daniel
21 Alter?

22 A. Daniel Alter?

23 Q. Alter, yes.

24 A. Yes.

25 Q. Who is he?

1 DAVID GHATANFARD

2 A. He's another lawyer.

3 Q. And he's representing you in an appeal of
4 the class action judgment?

5 A. He will be.

6 Q. And how did you pay him?

7 A. I'm sorry.

8 Q. How did you pay him?

9 A. How did I pay him.

10 Q. Yeah.

11 A. Through Mr. Spielberg.

12 Q. Where did Mr. Spielberg get the money
13 from?

14 A. I'm sorry.

15 Q. Where did Mr. --

16 A. I don't know.

17 Q. So Mr. Spielberg had your money?

18 Is that your testimony?

19 A. I'm sorry.

20 Q. So Mr. Spielberg possessed your money when
21 he paid Mr. Alter?

22 A. No.

23 Q. Explain to me how --

24 A. I asked him to send the check from the
25 amount of money I give him and as soon as I have

1 DAVID GHATANFARD

2 money I give it back to him.

3 Q. So Mr. Spielberg gave you a loan.

4 Is that your testimony?

5 A. That's what it is, yes.

6 Q. And he wasn't holding onto any cash for
7 you?

8 A. No.

9 Q. So your attorney gave you a loan.

10 Is that your testimony?

11 A. I said that.

12 MR. SEEMAN: Objection.

13 Q. And Mr. Alter was also paid by a check
14 from a law firm called Dealy Silberstein, D-E-A-L-Y
15 S-I-L-B-E-R-S-T-E-I-N; is that right, Mr. David
16 Ghatanfard?

17 A. I don't know about that, but I believe so.

18 Q. How did Dealy Silberstein have enough
19 money to pay Mr. Alter?

20 A. I don't know. You can ask them that
21 question.

22 Q. They just sent a check on your behalf to a
23 lawyer, that's doesn't --

24 A. Not on behalf of me. They sent on behalf
25 of Valerie Malfatano.

1 DAVID GHATANFARD

2 Q. If you need to buy a banana, how do you
3 pay for it?

4 A. Most of the time, you know, pay with
5 credit card or whatever.

6 Q. Ms. Kalayjian's credit card?

7 A. Ms. Kalayjian's credit card.

8 Q. And Ms. Kalayjian pays for that credit
9 card, she pay American Express from her Citibank
10 account; right?

11 A. I don't know.

12 MR. SEEMAN: Objection.

13 Q. I'd like to show you what is previously
14 marked as Plaintiff's Exhibit 7. You should have it
15 on your screen. In bold it says questions and
16 answers in connection with information subpoena and
17 questionnaire.

18 Do you see that?

19 A. Yes.

20 Q. Do you recall having to answer certain
21 questions relating to the judgment that was entered
22 in the class action?

23 A. Yes.

24 Q. Did you answer those questions?

25 A. I believe so.

1 DAVID GHATANFARD

2 Q. The last pain of this document, it says on
3 the top, I hereby declare under penalty of perjury,
4 that I have verified the contents of these responses
5 to be true.

6 Do you see that?

7 A. Yes.

8 Q. So all your responses are true?

9 A. To the best of my knowledge.

10 Q. Let's go to the first question. First
11 question asks you, State your full name and address.
12 And then your response, you wrote 9 N. Canterbury
13 Road, Harrison, New York.

14 Do you see that?

15 I'll make it a little bigger. Do you
16 see that?

17 A. That was wrong information that they
18 filled.

19 Q. So that's not true --

20 A. 2017, I don't see the last number, I don't
21 see. I see January 1, 20 -- now I see '17 yes.

22 Q. Why didn't include your Warburton address.

23 A. I wasn't living there.

24 Q. When did you move into Warburton?

25 A. I don't remember. Sometime later on

1 DAVID GHATANFARD

2 probably.

3 Q. You're sure that when you signed this, you
4 were not living at Warburton, Mr. Ghatanfard?

5 A. I'm not sure.

6 Q. You signed this -- you see on the bottom,
7 the last page, it says 20 September, 2022.

8 Do you see that?

9 A. Yes, I do.

10 Q. That's about ten months ago, right, eight
11 months ago?

12 A. Yes.

13 Q. You have been living at Warburton for more
14 than a year; right?

15 A. Yes.

16 Q. So your answer to number one is an
17 incomplete answer; correct?

18 A. Unfortunately, I didn't see the document.

19 Q. The document that you signed under penalty
20 of perjury?

21 A. Okay.

22 Q. Right?

23 A. I'm sorry.

24 Q. Right, the document that you signed under
25 the penalty of perjury; correct?

1 DAVID GHATANFARD

2 A. I don't answer the question.

3 Q. Did you sign at the end of this document
4 that you were signing it under penalty of perjury
5 that these -- I don't know want to put words in your
6 mouth. I'm going to read from the bottom. You
7 signed, You hereby declare under penalty of perjury
8 that you verify the contents of responses to be
9 true. In answer to number 1, it is not true that
10 these are all the addresses that you lived at in
11 2017; correct?

12 MR. NUSSBAUM: We can't hear you, Mr.
13 Comer.

14 MR. COMER: He said he's not going to
15 answer that question.

16 MR. NUSSBAUM: Are you going to seek a
17 protective order?

18 MR. COMER: He's not going to answer that
19 question.

20 MR. NUSSBAUM: Why not.

21 MR. COMER: Because his counsel has advised
22 him not to.

23 MR. SPIELBERG: And it doesn't say --

24 MR. NUSSBAUM: Are you going to seek to a
25 protective order? The only way you can

1 DAVID GHATANFARD

2 instruct the witness to not answer a question,
3 is if you plan to seek a protective order. So
4 tell me if you are going to seek a protective
5 order.

6 MR. SPIELBERG: The question doesn't say
7 all addresses.

8 MR. NUSSBAUM: It says, State your full
9 name, addresses and telephone number since
10 January --

11 MR. SPIELBERG: And he did that. He did
12 that.

13 MR. NUSSBAUM: He didn't state his
14 addresses. He left out an address. Look, if
15 you want to take it to the court that's fine.

16 MR. SPIELBERG: You take it to the court,
17 we'll meet you there.

18 Q. Number two asks you to "identify each
19 person or entity for whom you performed services
20 since January 1, 2017, and state the amount you were
21 paid for your services or the amount you are owed
22 for your services."

23 Do you see that?

24 A. Yes, I do.

25 Q. I'm sorry, I didn't hear your answer.

1 DAVID GHATANFARD

2 A. Yes.

3 Q. And your response is, or was, Laura
4 Christy, LLC, Laura Christy Midtown, LLC, Valbella
5 at the Park.

6 Do you see that?

7 A. Yes.

8 Q. But you also worked for One If By Land;
9 correct?

10 A. No.

11 Q. You didn't perform any services for One If
12 By Land?

13 A. No.

14 Q. Did you perform services for any other
15 company besides the three companies stated?

16 A. No.

17 Q. And the amount paid it says, N-O-T and
18 then S-U.

19 Do you know what that means?

20 A. No. I'm not sure.

21 MR. NUSSBAUM: Mr. Comer, I see you
22 talking to him. I saw you talking to him and
23 say I'm not sure and that's what he said.

24 That's completely improper now. Even for you
25 guys I would expect more.

1 DAVID GHATANFARD

2 MR. SPIELBERG: That was a gratuitous --

3 Q. Number three -- number four, I'm sorry.

4 MR. SPIELBERG: You are not forgiven.

5 Q. Number four asks you to identify by name
6 address -- withdrawn.

7 Going back to number two. Your
8 answer was that you're not sure how much you were
9 paid at Laura Christy, LLC, Laura Christy Midtown,
10 and Valbella at the Park, LLC?

11 A. One more time.

12 Q. Your answer was, and is, that you're not
13 sure how much you were paid from those three
14 entities?

15 A. How much paid, yes.

16 Q. Again, the question asks you to state the
17 amount you were paid for your services. And your
18 answer was that you're not sure.

19 Is that what you're saying?

20 A. Yes.

21 Q. Don't you have access to the bank records
22 that would help you know or find out how much you
23 were paid for your services at those entities?

24 A. I didn't look at it.

25 Q. But you have access to them; right?

1 DAVID GHATANFARD

2 A. I don't know.

3 Q. You don't know if you have access to your
4 bank accounts, Mr. Ghatanfard?

5 A. I didn't look at it. I don't know.

6 Q. Number five in instructions on this
7 document, I'm still on Exhibit 7, says that, and I'm
8 going to read it quote, "If in answering the
9 following questions you state in whole or in part,
10 that I do not know or unknown or otherwise indicate
11 any similar lack of knowledge, you shall state in
12 detail all efforts made to obtain the information
13 requested, the nature of any continuing efforts in
14 that regard, and by whom any such efforts were and
15 are being made."

16 Mr. Ghatanfard, what efforts did you
17 take to answer this question?

18 A. I don't recall.

19 Q. We asked you to state for us how much you
20 earned at Laura Christy, LLC or Christy Midtown,
21 LLC, and Valbella at the Park, LLC.

22 What steps did you take to try to
23 answer this question?

24 A. Repeat that question again.

25 Q. I asked you what steps did you take to

1 DAVID GHATANFARD

2 answer the question in question number two in this
3 information subpoena.

4 A. I don't know. I don't recall.

5 Q. Did you take any steps?

6 A. I don't recall.

7 Q. Well, if you took any steps, how is it
8 that you were not able to tell us how much you
9 earned at any of those restaurants in any of the
10 years from 2017 to when you signed this in 2022?

11 A. I don't remember.

12 Q. You don't remember what?

13 A. I don't recall taking any steps.

14 Q. You don't recall taking any steps to try
15 to find out.

16 Is that what you're saying?

17 A. Yes.

18 Q. Number 4 asks you to identify by name,
19 address, and telephone number, each and every
20 domestic and foreign bank and/or financial
21 institution in which you have an account or over
22 which you have signatory authority or other such
23 control, and provide the account number, type of
24 account, and account balance from January 1, 2017 to
25 present. And then it says, in addition, identify

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2 the record owner or title of the account.

3 Do you see that, number four?

4 A. Yes, I do.

5 Q. And in response, you only wrote Bank of
6 America; right?

7 A. Yes.

8 Q. Isn't it true that you opened your Bank of
9 America account in August 2022, one month before you
10 signed this subpoena?

11 A. Yes.

12 Q. So you had other accounts between January
13 1, 2017 and the date that you signed the subpoena;
14 correct?

15 A. Personally?

16 Q. What was your answer?

17 A. I said personally, or during that time?

18 Q. Personally first.

19 A. I didn't have it personally.

20 Q. You had a joint account; right?

21 A. Yes.

22 Q. So why didn't you identify a joint account
23 here?

24 A. I didn't know I had to put the joint
25 account. It doesn't say anything about joint

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2 account.

3 Q. It's very clear that you have to put any
4 account in which you have any signing authority or
5 control. It's very clear in the question, Mr.
6 Ghatanfard.

7 A. Listen, I'm not a lawyer, I didn't
8 understand it, I'm sorry.

9 Q. You had signing authority over at Valbella
10 Midtown accounts; correct?

11 A. I'm sorry.

12 Q. You have signing authority, and had
13 signing authority over at Valbella Midtown's bank
14 accounts; correct?

15 A. Yes.

16 Q. And you didn't note those here either;
17 correct?

18 MR. SPIELBERG: Mr. Nussbaum, can you give
19 me a moment please.

20 MR. NUSSBAUM: How long do you need?

21 MR. SPIELBERG: A moment.

22 MR. NUSSBAUM: Off the record or should we
23 wait I'm asking.

24 MR. SPIELBERG: On the record.

25 I have a commitment at 5:00 p.m. I'm

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2 going to have to end this at 5:00 p.m. You
3 have all these answers, they are a matter of
4 record. You can do with these as you see fit,
5 but I would urge you if you have any
6 substantive questions, to ask them now rather
7 than beating on the witness over his answers.

8 MR. NUSSBAUM: The good news for my
9 clients is that Lenny Spielberg doesn't decide
10 what are considered substantive questions in
11 this deposition.

12 MR. SPIELBERG: No you --

13 MR. NUSSBAUM: And thankfully -- and I
14 don't agree with you. So please step out of
15 the way. I --

16 MR. SPIELBERG: I appreciate you giving me
17 the moment.

18 MR. NUSSBAUM: Great.

19 Q. Mr. Ghatanfard, why did you not list all
20 the accounts that you had signing authority over in
21 response to number four?

22 MR. SEEMAN: Objection.

23 A. I didn't understand it. I told you, I'm
24 not good with reading. I only speak the language.
25 I didn't understand.

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2 Q. So now that you understand it better, are
3 you going to amend your responses?

4 MR. SEEMAN: Objection.

5 Q. What was the answer?

6 MR. SEEMAN: Objection.

7 A. Yes.

8 Q. Yes, you're going to amend your responses?

9 A. Yes.

10 Q. Number 16, asks you to "Have you directly
11 or indirectly transferred, conveyed or disposed of
12 any cash, assets, and/or other items of value with a
13 cost or fair market value of \$1,000.00 or more
14 during the period of January 1, 2017 to the present.
15 If your answer to this question is in the
16 affirmative, provide the following information for
17 each such item."

18 Do you understand that?

19 A. I see it.

20 Q. Earlier today we saw that in just three
21 separate transactions, you received deposits of more
22 than three and a half million dollars. In September
23 2020 over 2021 from Valbella Midtown. And 1.4
24 million dollars from your refinance, right, that's
25 what we saw earlier today?

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2 A. Yes.

3 Q. Why is it that you did note in response to
4 this answer which asks you to note any transfer that
5 you made over \$1,000.00, more than 3.5 million.
6 Just in those three transactions? I'm not talking
7 about any other transactions.

8 A. I didn't transfer them.

9 Q. You said earlier you transferred it to
10 your brother?

11 A. I'm sorry.

12 Q. You testified earlier, that you
13 transferred it to your brother, Mr. Ghatanfard.

14 A. I didn't say I transferred it. I didn't
15 say I transferred it to my brother. I said my
16 brother helped, and I helped my brother.

17 Q. How did he get the money?

18 A. I don't remember how I give it to him.

19 Q. Who else did you transfer the money to?

20 A. Maybe my brother. Maybe, you know --
21 maybe my tax before that.

22 Q. Maybe who?

23 A. My taxes.

24 Q. Besides the taxes, where else did the
25 money go?

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2 A. I don't remember.

3 Q. Why is it that you did not fully answer
4 this question?

5 A. I don't know.

6 Q. What steps did you take to try to answer
7 this question?

8 A. I don't know.

9 Q. So when you said in this document, again
10 under the penalty of perjury, that the contents in
11 this document are true, it's not true that you
12 listed every transfer or every transfer you made
13 that was more than \$1,000.00; correct?

14 MR.COMER: Do not answer.

15 MR. NUSSBAUM: Are you going to seek a
16 protective order, Mr. Comer?

17 I can't hear you.

18 MR.COMER: I told him not to answer that
19 question.

20 MR. NUSSBAUM: What's the basis for your
21 direction to not answer?

22 MR.COMER: I don't owe you any.

23 MR. NUSSBAUM: Yes, you do. You're an
24 officer of the court at a deposition, and
25 either you're going to seek a protective order,

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2 or the witness can plead the fifth amendment,
3 or he has to answer. Those are the options at
4 a deposition.

5 I can't hear you.

6 MR.COMER: Okay, thank you for the
7 lecture. He's not answering that question.

8 Q. So your answer to 16 is not a true answer;
9 correct?

10 MR.COMER: He's not going to answer.

11 MR. SEEMAN: Objection.

12 MR. NUSSBAUM: I'd like to mark the last
13 two directions to not answer for a ruling by
14 the court.

15 We're marking for a ruling and we're
16 noting for the record, that Mr. Comer is
17 refusing to state the basis for his instruction
18 to the witness to not answer the question.

19 MR.COMER: Mr. Nussbaum, Mr. Ghatanfard
20 needs a five-minute break.

21 (Recess taken)

22 MR. NUSSBAUM: Back on the record.

23 Q. Mr. Ghatanfard, just to remind that you're
24 still under oath.

25 Do you understand that?